

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT MILLER,

Plaintiff,

-v-

9:20-CV-666

OTT, Correctional Officer;
Mohawk Correctional Facility,

Defendant.

APPEARANCES:

OF COUNSEL:

ROBERT MILLER
Plaintiff, Pro Se
18-A-3955
Mid-State Correctional Facility
P.O. Box 2500
Marcy, NY 13403

HON. LETITIA JAMES
New York State Attorney General
Attorneys for Defendants
The Capitol
Albany, NY 12224

DAVID C. WHITE, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On June 15, 2020, *pro se* plaintiff Robert Miller ("Miller"), an inmate in the custody of the New York State Department of Corrections and

Community Supervision (“DOCCS”) at Mohawk Correctional Facility (“Mohawk C.F.”), Downstate Correctional Facility (“Downstate C.F.”), Five Points Correctional Facility (“Five Points C.F.”), and Franklin Correctional Facility (“Franklin C.F.”), filed this 42 U.S.C. § 1983 action alleging, *inter alia*, that defendant Mohawk C.F. Correction Officer Ott violated his Eighth Amendment rights. Dkt. No. 1. Thereafter, defendants moved under Federal Rule of Civil Procedure (“Rule”) 56 seeking summary judgment on plaintiff’s claims. Dkt. No. 12.

On August 5, 2021, U.S. Magistrate Judge Christian F. Hummel advised by Report & Recommendation (“R&R”) that defendant’s motion for summary judgment be granted and that plaintiff’s complaint be dismissed with prejudice. Dkt. No. 15. Plaintiff has not filed objections, and the time period in which to do so has expired. *See id.* Upon review for clear error, the Report & Recommendation will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

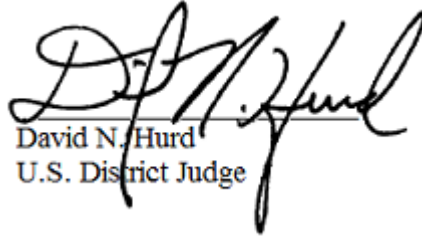
Therefore, it is

ORDERED that

1. The Report & Recommendation is ADOPTED;
2. Defendant’s motion for summary judgment is GRANTED; and
3. Plaintiff’s complaint is DISMISSED.

The Clerk of the Court is directed to enter a judgment accordingly and close the file.

IT IS SO ORDERED.



David N. Hurd
U.S. District Judge

Dated: August 26, 2021
Utica, New York.